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FEDERAL ELECTION
COMMISSION
2017 JUL 31 AM 8:39
OFFICE OF GENERAL
COUNSEL

Mr. Jeff Jordan
Office of Complaints Examination
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

Mr. Jordan:

This will serve as the formal Response of the candidate and the committee to the frivolous complaint filed by H. Terry Hutchens in which Hutchens asserted, without substantiation, that a violation of 52 U.S.C. 30102(e)(1) and 11 C.F.R. §101.1 has occurred. That assertion is completely without any basis in fact.

2. Upon review of the complaint, you will note that Hutchens dated the complaint on April 17, 2017, nearly two months prior to the occurrence of the "facts" that Hutchens asserts triggered a "candidacy". Either Hutchens is a clairvoyant or his decision to launch a complaint with the Federal Election Commission (the "Commission"), against the candidate and the committee, actually predated any triggering activity on the part of the candidate or the committee. The fact that Hutchens drafted the complaint on or about April 17, 2017 and then waited until June 28, 2017 to have his signature notarized should strongly suggest to the Commission that this frivolous complaint was intended, not to seek enforcement by the Commission of its filing requirements but rather to generate media attention and score a political point against Mark Harris. Upon information and belief, Hutchens is a well known supporter and public advocate for the candidacy of Robert Pittenger, an incumbent Member of

Congress. Upon information and belief, the filing of this frivolous complaint by Hutchens was coordinated and approved, in advance, by candidate Pittenger.

3. Attached to the complaint as "Exhibit 1" is the text of a June 12, 2017 article from the Charlotte Observer entitled "First Baptist's Mark Harris to step aside as he considers another bid for Congress" (emphasis added.) That article restates that which Mark Harris told his congregation the previous Sunday, that he had "decided to resign" as he "weighs another run for Congress" and quotes Mark Harris as saying that he was resigning "as I continue to look at undertaking a campaign." Further in the text of the article, Mark Harris informs the reporter that he had not decided for sure yet whether to try again to unseat Pittenger. Those words, both those of the reporter and Mr. Harris are clear and unambiguous...Harris was "considering" a bid for Congress and was "continuing to look at undertaking a campaign." At no time during his remarks to his congregation on June 11, 2017 or in his subsequent interviews with the media did Mark Harris state without equivocation that he was a candidate for federal office. Quite the opposite is true. Mr. Harris used language that was clear on its face that he was simply exploring the possibility of a future candidacy. The article also clearly indicates that the June 11, 2017 remarks made by Pastor Harris to his congregation were prompted by a Pittenger email solicitation for contributions in which Pittenger quoted unnamed sources to the effect that Mark Harris would be resigning from his church so as to mount another challenge to Pittenger. The Pittenger email solicitation (a copy of which, dated June 5, 2017, is appended for your review) caused questions to be raised within the congregation about the future role of Mr. Harris with the church. To address those questions and to establish a succession plan within the church, Mr. Harris decided to speak to his congregation on June 11, 2017. Mark Harris did not tell his congregation on June 11, 2017 that he was a candidate for elective office.

4. Attached to the complaint as "Exhibit 2" is the text of a radio interview with Mark Harris that was broadcast on June 12, 2017 by radio station WBT in Charlotte. The transcript of that interview shows that, in response to a question, Mark Harris said that he was leaving his church "in the near future...as I continue under uh taking a look at undertaking a campaign for the ninth district U.S. House seat once again." The language used by Mark Harris is clear and unambiguous...he does not announce a "candidacy" and does nothing more that reiterate that which he had said the previous day to his congregation...that he was continuing to look at undertaking a potential campaign for Congress. This quote simply does not support the assertion made by Hutchens in his complaint.

5. Attached to the complaint as "Exhibit 3" is the text of an article dated June 27, 2017 from the Baptist Press reporting on an interview with Mark Harris. In that article, it is reported that Mark Harris "has drawn media focus for his decision to resign his pastorate as he considers a second run for Congress" (emphasis added), that Mr. Harris "has not formally announced his candidacy but is 'looking toward that decision'" and that "if Harris becomes a candidate in the Republican primary for North Carolina's 9th U.S. Congressional District, it would be his second run for the seat." The text of this interview simply does not support the assertion made by Hutchens in his complaint.

6. Attached to the complaint as "Exhibit 4" is a link to a website (www.reddomegroup.com) and an assertion that Mark Harris had hired Andy Yates of the Red Dome Group as a political consultant. That assertion is completely false. Prior to July, 2017, Red Dome Group had not been retained to provide consulting services and Andy Yates was not under contract with the committee to provide any such services. Upon information and belief, the Red Dome Group website has never contained any reference to the candidate or to the committee. A sworn affidavit from Andy Yates attesting to the

accuracy of the above can be supplied if the Commission so desires. The text of this exhibit is incorrect and simply does not support the assertion made by Hutchens in his complaint.

7. Attached to the complaint as "Exhibit 5" is an assertion that Mark Harris and his consultants have "called numerous donors and political supporters across the district seeking financial and political support for his campaign" the "evidence" for which assertion is an email of June 27, 2017 from a third party (not from Mark Harris). The email is, in fact, from the Anson County (NC) GOP Chairman and comments on possible GOP party committee activity in the county. The email was not written by Mark Harris and does not quote Mark Harris. The statements contained in the email are those of Brian Johnson and cannot be construed as representing the position of Mark Harris with respect to a future candidacy. The text of the Johnson email simply does not support the assertion made by Hutchens in his complaint.

8. On July 3, 2017, Mark Harris opened a bank account with the Wells Fargo Bank in the name of the committee. Into that account were deposited two checks, one from the personal funds of Mark Harris dated July 3, 2017 in the amount of \$1000.00 and one, dated July 3, 2017, from the personal funds of a supporter in the amount of \$100.00. An official account statement from the Wells Fargo Bank evidencing that this account was opened on July 3, 2017 and funded on that date can be provided if the Commission so desires.

9. On July 5, 2017, the candidate and the committee received written confirmation from the Commission that the requisite Forms One and Two had been received by the Commission on July 4 and 5, 2017. The candidate took the steps necessary to become a "candidate" and duly notified the Commission of that fact on July 4-5, 2017. At no time prior to July 5, 2017, was Mark Harris a "candidate" as that term is defined in the Federal Election Campaign Act, amended (the "FECA").

The facts as set forth above provide a full and complete refutation to the assertion made by Hutchens that Mark Harris became a "candidate" on or before June 11, 2017. The fact that Hutchens actually drafted his complaint on or about April 17, 2017 and dated the complaint that day should strongly suggest that this is little more than a political stunt flowing directly from the campaign of Robert Pittenger, is frivolous, at best, and represents nothing more than an abuse of the Commission's role in enforcing actual, serious violations of the FECA.

For this reason, I would ask that the Commission dismiss this complaint in an expedited manner and take no further action against Mark Harris or the committee. Should you have any questions about this response, please do not hesitate to contact me directly.

With best wishes,

Sincerely,



William B. Canfield

Counsel

Mark Harris for Congress-2018 Committee

Enclosure (1)

ATTACHMENT # 1

Sent from my iPhone

Begin forwarded message:

From: Robert Pittenger <robert@robertpittenger.com>

Date: June 5, 2017 at 1:07:29 PM EDT

To:

Subject: Political update

Dear Miller: From several sources, I am told that Rev. Mark Harris is resigning from First Baptist Church in July and will be campaigning full time against me for the March, 2018 republican primary. Rev. Harris has a very strong grass roots following, as state chairman for Governor Huckabee's presidential campaign and former chair of the state Baptist convention. He also led the statewide marriage amendment and HB 2 efforts. Rev. Harris brings however, a limited background and narrow focus to the job. The 2018 Republican primary will have low turnout, as there are no other national or statewide elections. As such, Rev. Harris hopes his grassroots efforts will be successful with 7-8 percent likely turnout. Your support at this time is very important for us to win this primary. I will be working full time in Washington as Rev. Harris organizes and campaigns. Please respond to the funding appeal you will receive next week from Governor Martin. Thank-you for your good friendship. Sincerely,



Robert Pittenger

Member of Congress